

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:)	Chapter 7
)	
James Cosmano,)	Case No. 19 B 13287
)	
Debtor.)	Hon. A. Benjamin Goldgar
James Cosmano,)	
)	
Adversary Plaintiff)	Adversary No.
-vs-)	
)	
United States of America,)	
)	
Adversary Defendant.)	

COMPLAINT TO DETERMINE DISCHARGEABILITY OF INCOME TAXES

Plaintiff, James Cosmano (“Cosmano”), by his attorneys Paul M. Bach and Penelope N. Bach of Bach Law Offices, Inc. in support of his Complaint to Determine the Dischargeability of Income Taxes pursuant to 11 U.S.C. §§ 507(a)(8)(A)(i) and 523(a)(1)(B)(ii) states as follows:

Jurisdiction

1. Cosmano’s case was commenced on May 8, 2019 by the filing of a voluntary petition for relief under chapter 7 of title 11, United States Code (“Code”).
2. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 157 and 1334(b).
3. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(1).
4. Pursuant to 28 U.S.C. § 1408 and 1409, this district is the proper venue for this adversary proceeding.

Count I
Discharge of Taxes, Interest and Penalties For 1040 Taxes
(Pursuant to 11 U.S.C. §523 (a)(1))

5. Among the creditors listed by Cosmano in his Bankruptcy Petition which included the Schedules and Statement of Financial Affairs was the United States of America via the Internal Revenue Service (“IRS”).
6. The United States of America was given proper notice of the filing of Cosmano’s Bankruptcy Case and received the “Notice of Chapter 7 Bankruptcy Case” which was sent by the Bankruptcy Noticing Center on May 11, 2019.
7. As of the Petition Date, Cosmano allegedly owed the IRS approximately \$6,051,979.00 for income taxes, penalties and interest (collectively “Tax Liability”) for calendar years 2007-10 (collectively “Tax Years”).
8. On August 7, 2017, the United States of America filed suit in the United States District Court for the Northern District of Illinois Case 17-cv-5721 against Cosmano for the stated purpose to reduce to judgment the Tax Liability. (“the District Court Case”).
9. No allegations stated in the District Court case allege Cosmano made a fraudulent return or willfully attempted in any manner to evade or defeat such tax liability nor is there an allegation of a fraudulent return or willfully attempting in any manner to evade or defeat such tax liability in the District Court’s Judgment.
10. In the past few weeks, The United States of America has made accusations in this Court and other forums that the Tax Years in question (2007-2010) are not dischargeable because the Cosmano’s federal tax debts were excepted from discharge under Section 523(a)(1)(C). These accusations are made without support or a factual basis.

11. In fact, the United States has not and cannot prove that Cosmano's federal tax debts were excepted from discharge because Cosmano either made a fraudulent return or willfully attempted to evade or defeat the payment of taxes.

12. Pursuant to 11 U.S.C. Section 523(a)(1) and 11 U.S.C. Section 507(a)(8) the income taxes, plus any additional accrued interest and penalties owing by Cosmano for the tax years in question (2007-2010) is dischargeable for each year because:

a. The tax return due date, plus extensions, for the above tax years expired more than 3 years before the filing of the petition herein;

b. The tax liability for the above tax years was assessed by the IRS more than 240 days before the filing of the petition herein;

c. Cosmano's tax returns for the years above were filed more than 2 years before the date of the filing of the petition herein; and

d. Cosmano's tax liability relating to the above tax years does not include debt with respect to which Cosmano made a fraudulent return or willfully attempted in any manner to evade or defeat such tax liability.

WHEREFORE, James Cosmano, prays this Court enter Judgment Orders as follows:

a) enter an order determining his tax liability for Cosmano's income taxes for the years 2007-2010, owed to the United States of America, Department of the Treasury – Internal Revenue Service, to be dischargeable;

b) To enjoin the United States of America from commencing or continuing any action against the Plaintiffs on any of the aforesaid alleged debt until a determination is made of the dischargeability of said debts; and

c) for such other relief as the court deems appropriate.

DATED THIS the 13th day of April, 2021

Respectively Submitted,
James Cosmano

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